



JS-4

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LEONARD CHOI and ANNA BO YOUNG CHOI, as
Joint Tenants with Right of Survivorship,

PLAINTIFF(S)

v.

BYUNG SUNG LEE, CHI HYUNN LEE, et al.,

DEFENDANT(S)

CASE NUMBER

CV 18-5213-PSG (JCx)

ORDER RE REQUEST TO PROCEED
IN FORMA PAUPERIS

IT IS ORDERED that the Request to Proceed *In Forma Pauperis* is hereby GRANTED.

Date

United States Magistrate Judge

IT IS RECOMMENDED that the Request to Proceed *In Forma Pauperis* be DENIED for the following reason(s):

- ☐ Inadequate showing of indigency ☒ District Court lacks jurisdiction
☐ Legally and/or factually patently frivolous ☐ Immunity as to _____
☒ Other: The removed California unlawful detainer action should be remanded sua sponte.
See 28 U.S.C. §1447(c) (Court "shall" remand "any time" it appears to lack subject matter jurisdiction over case)

Comments:

Removing defendant fails to overcome strong presumption that the Court lacks jurisdiction over this purely state-law action. *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir.1992) (defendant's burden to prove removal jurisdiction). The state court records do not reflect any action that originally could have been filed in federal court; The Notice of Removal also does not plausibly support diversity or federal-question jurisdiction. 28 U.S.C. §1441(a). Removal may not be based on asserted/anticipated defenses. *Franchise Tax Bd. v. Laborers*, 463 U.S. 1, 14 (1983).

June 18, 2018

Date

/s/ Jacqueline Chooljian

United States Magistrate Judge

IT IS ORDERED that the Request to Proceed *In Forma Pauperis* is hereby:

- ☐ GRANTED
☒ DENIED (see comments above). IT IS FURTHER ORDERED that:
☐ Plaintiff SHALL PAY THE FILING FEES IN FULL within 30 days or this case will be dismissed.
☐ This case is hereby DISMISSED immediately.
☒ This case is hereby REMANDED to state court.

Date

6/22/18

United States District Judge

BYUNG SUNG LEE
733 S. MANHATTEN PLACE, #306
LOS ANGELES, CA 90005

FILED
2018 JUN 13 AM 9:38
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA
BY *OV*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LEONARD CHOI AND ANNA BO YOUNG CHOI,
AS JOINT TENANTS WITH RIGHT
OF SURVIVORSHIP

PLAINTIFF-PETITIONER.

CASE NUMBER

2:18-CV-05213-PSG(JC_x)

BYUNG SUNG LEE; CHI HYUNN LEE
DOES 1 TO 10 INCLUSIVE

DEFENDANT(S)

REQUEST TO PROCEED
IN FORMA PAUPERIS WITH
DECLARATION IN SUPPORT

1. BYUNG SUNG LEE, declare under penalty of perjury, that the foregoing is true and correct; that I am the petitioner/plaintiff in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefore, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefore and that I am entitled to redress.

I further declare under penalty of perjury that the responses which I have made to the questions and instructions below are true, correct and complete.

1. Are you presently employed? ☒ Yes ☐ No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. Self-employed \$1250/month

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

2. Have you received, *within the past twelve months*, any money from any of the following sources?

- a. Business, profession or form of self-employment? ☐ Yes ☒ No
- b. Rent payments, interest or dividends? ☐ Yes ☒ No
- c. Pensions, annuities or life insurance payments? ☐ Yes ☒ No
- d. Gifts or inheritances? ☐ Yes ☒ No
- e. Any other income (other than listed above)? ☐ Yes ☒ No
- f. Loans? ☐ Yes ☒ No

If the answer to any of the above is yes, describe such source of money and state the amount received from each source during the past twelve (12) months: _____

REQUEST TO PROCEED IN FORMA PAUPERIS WITH DECLARATION IN SUPPORT

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts, if applicable.) ☐ Yes ☒ No

If the answer is yes, identify each account and separately state the amount of money held in **each** account for each of the six (6) months prior to the date of this declaration.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☐ Yes ☒ No

If the answer is yes, describe the property and state its approximate value _____

5. In what year did you last file an Income Tax return? 2017

Approximately how much income did your last tax return reflect? \$15,600.00

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:

I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury. I further understand that perjury is punishable by a term of imprisonment of up to five (5) years and/or a fine of \$250,000 (18 U.S.C. Sections 1621, 3571).

CA

State

Los Angeles

County (or City)

I, BYUNG SUNG LEE, declare under penalty of perjury that the foregoing is true and correct.

6-13-18

Date

Byung Sung Lee

Plaintiff/Petitioner (Signature)